

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

**IN RE: DIGITEK® PRODUCT LIABILITY
LITIGATION**

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

NOTICE OF VIDEO DEPOSITION *DUCES TECUM*

PLEASE TAKE NOTICE that, under Federal Rules of Civil Procedure 26(d) and 30, Defendants will take the deposition of MARK G. KENNY on **Friday, January 7, 2011 at 9:00 a.m. (Eastern Time)**, at Harris Beach, PLLC, 100 Wall Street, New York, N.Y. 10005. The oral examination will continue from day to day until completed. This deposition will be recorded stenographically and on videotape and will comply with any relevant orders in this MDL. This deposition is noticed in the above-captioned matter for any and all purposes permitted by the Federal Rules of Civil Procedure and any other federal, state, or local rules that apply to this action and the deposition will be taken in accordance with these rules. Pursuant to Federal Rule of Civil Procedure 30(b)(2), Defendants request that Mr. Kenny produce for inspection at the time of deposition:

1. The witness' current curriculum vitae or resume.
2. All correspondence and communication between the witness or anyone acting on the witness' behalf, and attorneys representing plaintiffs in this Digitek® litigation.
3. All other documents prepared by the attorneys for the plaintiffs and sent to the witness.
4. All documents, including documents and deposition transcripts which refer or relate to Digitek®, that the witness received from any source.
5. All retainer agreements or other agreements under which the witness has been or will be paid for work related to the Digitek® litigation.

6. All bills that the witness has rendered to attorneys and law firms in connection with Digitek® litigation.
7. A copy of the witness' entire file, including all electronic documents and correspondence, in connection with this matter.
8. All documents, including additional materials received or reviewed since the time of Mr. Kenny's first deposition on June 29, 2010, tangible things, data, or writings that the witness reviewed, relied upon, examined, considered, or rejected in preparing the reports in this matter.
9. Everything the witness reviewed that indicates that the plaintiffs ingested defective Digitek®.
10. All drafts of the witness' reports written by counsel.
11. All notes that the witness has taken in connection with review of this matter.
12. All documents that the witness has prepared concerning the subject matter of this litigation.
13. All medical literature on which the witness relies in connection with the opinions expressed in the reports.

Dated: December 22, 2010

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CERTIFICATION OF SERVICE

I hereby certify that, on December 22, 2010, I electronically filed the foregoing **Notice of Deposition Duces Tecum** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record, and served the Notice via e-mail upon the following:

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